

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTONIO DURAN,

Petitioner,

-v-

No. 04 Civ. 302 (LTS)(FM)

WILLIAM PHILLIPS, Superintendent, Green
Haven Correctional Facility,

Respondent.

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MEMORANDUM ORDER AND OPINION ADOPTING
REPORT AND RECOMMENDATION

On February 1, 2008, Magistrate Judge Frank Maas issued a Report and Recommendation (“Report”) recommending that Petitioner Antonio Duran’s (“Petitioner”) habeas corpus petition be denied. A timely objection to the Report was received from Respondent with respect to the reasoning behind one of the Report’s determinations that was made in Respondent’s favor. Petitioner has not submitted any objections of his own. The Court has reviewed thoroughly Respondent’s objection and the Report.

When reviewing a Report and Recommendation, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.A. § 636(b)(1)(C) (West Supp. 2006). The court must make a de novo determination to the extent that a party makes specific objections to a magistrate’s findings. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997). To the extent, however, that the party makes only conclusory or general objections, or simply reiterates the original arguments, the Court will

review the Report strictly for clear error. See Pearson-Fraser v. Bell Atl., No. 01 Civ. 2343 (WK), 2003 WL 43367, at *1 (S.D.N.Y. Jan. 6, 2003); Camardo v. Gen. Motors Hourly-Rate Employees Pension Plan, 806 F. Supp. 380, 382 (W.D.N.Y. 1992); Vargas v. Keane, No. 93 Civ. 7852 (MBM), 1994 WL 693885 at *1 (S.D.N.Y. Dec. 12, 1994). Objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate judge's proposal. Camardo, 806 F. Supp. at 381-82.

Because Respondent's objection, even if valid, would not alter the Report's conclusion that Petitioner's habeas petition should be denied, it is not necessary for the Court to address Respondent's objection. The Court has reviewed carefully Magistrate Judge Maas's thorough and well-reasoned Report and Recommendation and finds no clear error.

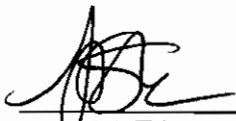
CONCLUSION

For the foregoing reasons, the Court accepts the Report's recommendation that Petitioner's petition for a writ of habeas corpus be denied. The Court also accepts the Report's recommended finding that Petitioner has not made a substantial showing of the denial of a constitutional right, and a certificate of appealability will not issue.

The Clerk of Court is respectfully requested to enter judgment denying the petition and close this case.

SO ORDERED.

Dated: New York, New York
August 22, 2008



LAURA TAYLOR SWAIN
United States District Judge